

Application No. 09/704,684  
Amendment Dated: May 7, 2004  
Reply to Office Action dated February 12, 2004

### REMARKS

#### Objection to the Declaration

The Examiner has objected to the Declaration being defective for lack of identification of the application filing number and filing date on page 1. This objection is not fully understood. The Declaration was newly executed and was submitted with the initial filing. Accordingly, no application filing number or filing date was accorded to the application by the USPTO at the time of execution of the Declaration. Indeed, the Specification as-filed accompanied the Declaration submitted with the initial filing as indicated on page 1 of the Declaration and on the Utility Patent Application Transmittal submitted with the initial filing. Applicants respectfully submit that no new Oath/Declaration is therefore required and that this objection should be withdrawn.

#### Rejection of Claims 1-2, 9, and 14-15 under 35 USC 103(a)

The Examiner has objected to Claims 1-2, 9, and 14-15 as being obvious over Raychaudhuri et al. (USP 5,684,791). Applicants respectfully disagree.

Raychaudhuri et al. discloses a procedure related to wireless asynchronous transfer mode (ATM) access which involves dedicated allocation of constant and variable bit rate (CBR/ VBR) streams and dynamic allocation of available bit rate (ABR) streams. Applicant respectfully submits that this is non-analogous art as compared to the third generation (3G) and enhanced 3G access networks (e.g., cdma2000 1xRTT) relevant to the present invention. As such, the Raychaudhuri et al. is not considered applicable to the present invention due to its structural and functional dissimilarities.

Further, Raychaudhuri et al. clearly relates to ATM transmissions allocated on a frame-by-frame basis. The Examiner's attention is drawn to the disclosure of Raychaudhuri et al. at column 6, lines 20-24. In contrast, Applicants' invention

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pertains to wireless packet scheduling with allocation on a per packet basis rather than a per frame (i.e., stream) basis. Applicants believe that this aspect was implicitly clear in each independent claim 1, 9, and 14 as originally filed. In order to clarify the claimed invention and explicitly differentiate the present invention from the Raychaudhuri et al. disclosure, Applicants have amended each independent claim 1, 9, and 14 to make clear that the wireless quality of service condition is determined on a per-packet basis. Accordingly, Applicants respectfully submit that claims 1, 9, and 14 clearly differentiate the present invention from Raychaudhuri et al. either taken alone or in combination with any other cited references.

Still further, Applicants respectfully submit that the obviousness rejection made by the Examiner lacks proper motivation. Specifically, the Examiner asserts that:

"[I]t would have been obvious to one of ordinary skill in the art to broadly interpret the determination of different types of services ABR, CBR and VBR having different QoS requirements and different priorities as the determination of the wireless quality of service condition for each of a plurality of packets awaiting transmission to a terminal."

Applicant submits that the above statement is an unsupported conclusion that lacks any recited motivation in the disclosure of Raychaudhuri et al. either alone or in any combination with the other cited references. As mentioned above, ABR, CBR, and VBR traffic is stream-based with the specific procedure disclosed by Raychaudhuri et al. being accomplished on a frame-by-frame basis. Applicants invention is a packet based solution applicable to 3G and enhanced 3G access networks and is accomplished on a per-packet basis. This is not shown or fairly suggested by Raychaudhuri et al. either alone or in combination with the cited prior art. Accordingly, Applicants respectfully submit that the obviousness rejection fails to include any motivation that would lead one to apply a per-packet allocation scheme to Raychaudhuri et al.

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Based upon at least the above three points of argument, it is believed that Claims 1, 9, and 14 are allowable over Raychaudhuri et al. either alone or in any combination with the cited prior art. As Claims 2 and 15 are also believed to be allowable as such claims depend from Claims 1 and 14, respectively. Accordingly, Applicants respectfully submit that Claims 1-2, 9, and 14-15 are not shown or fairly suggested by Raychaudhuri et al. and the rejection therefor should be withdrawn.

Rejection of Claims 3-5 and 10-11 under 35 USC 103(a)

The Examiner has rejected Claims 3-5 and 10-11 as being obvious by Raychaudhuri et al. in light of Chiussi et al. (USP 6,532,213). Applicants respectfully disagree.

Applicants incorporate the arguments already made above with regard to independent Claims 1 and 9 from which Claims 3-5 and 10-11 ultimately depend. As Claims 1 and 9 are believed to be allowable, so to are Claims 3-5 and 10-11. Accordingly, Applicants respectfully submit that Claims 3-5 and 10-11 are not shown or fairly suggested by Raychaudhuri et al. in light of Chiussi et al. and the rejection therefor should be withdrawn.

Rejection of Claims 6-8 and 12-13 under 35 USC 103(a)

The Examiner has rejected Claims 6-8 and 12-13 as being obvious by Raychaudhuri et al. in light of Walton et al. (USP 6,493,331). Applicants respectfully disagree.

Again, Applicants incorporate the arguments already made above with regard to independent Claims 1 and 9 from which Claims 6-8 and 12-13 ultimately depend. As Claims 1 and 9 are believed to be allowable, so to are Claims 6-8 and 12-13. Accordingly, Applicants respectfully submit that Claims 6-8 and 12-13 are not shown or fairly suggested by Raychaudhuri et al. in light of Walton et al. and the rejection therefor should be withdrawn.

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New Claims 16 and 17

Applicants have added new Claims 16 and 17 which depend from Claims 4 and 11, respectively. These claims are supported by the originally-filed specification at page 7, lines 18-24 and are believed to be allowable.

No fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account.

It is submitted that this application is now in condition for allowance, and action to that end is respectfully requested.

Respectfully submitted,

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